HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.9615 of 2006

Dated: 2nd May, 2005

Between:

P. Srinivas Goud .. Petitioner

And

The District Panchayat Officer,

at Sangareddy, Medak District .. Respondent

O R D E R:

The respondent passed an order dated 12.4.2006 which reads as under:

> *"Through the reference 1st cited, the villagers and ward members of the Gram Panchayat, Nagaram of Hatnoora Mandal have submitted a representation stating that Sri P.Srinivas Goud, Sarpanch, Gram Panchayat, Nagaram is having more than (2) children for which he deserves disqualification to the post of Sarpanch.*

Upon which the Divisional Panchayat Officer, Medak has enquired into and submitted a report vide reference 2nd cited, stating that Sri P.Srinivas Goud, Sarpanch, Gram Panchayat, Nagaram is having more than (2) children, namely, Sai Teja (9) years, Sampath (7) years and second wife's daughter (1). Further, the Divisional Panchayat Officer has submitted that on verification of Birth certificate the date of birth in respect of second wife's daughter i.e. 3rd child is 29.12.2005 after (9) years from the date of commencement of Andhra Pradesh Panchayat Raj Act, 1994.

As such in accordance with provisions contained in sub-section (3) of Section 19 and Section 156 of Andhra Pradesh Panchayat Raj Act, 1994 read with, Sri P.Srinivas Goud, Sarpanch, Gram Panchayat, Nagaram of Hatnoora Mandal is hereby intimated that he has incurred disqualification for holding the office of the Sarpanch, Gram Panchayat, Nagaram of Hatnoora Mandal with immediate effect."

The petitioner, Sarpanch of Nagaram village, Hatnoora Mandal, Medak District *inter alia* submits that inasmuch as the impugned order of the respondent dated 12.4.2006 itself intimates that the petitioner has incurred the disqualification with immediate effect, it is contrary to the provisions of Section 22 of the Panchayat Raj Act, 1994 (for brevity "the Act").

Sections 22(1) & (2) of the Act, to the extent relevant and material, read as under:

"Authority to decide questions of disqualification of members:-

1. *Where an allegation is made that any person who is elected as a member of a gram panchayat is not qualified or has become disqualified under Section 17, Section 18, Section 19 or Section 20 by any voter or authority to the executive authority in writing and the executive authority has given intimation of such allegation to the member through the District Panchayat Officer and such member disputes the correctness of*

the allegation so made, or where any member himself entertains any doubt whether or not he has become disqualified under any of those sections, such member or any other member may, and the executive authority, at the direction of the gram panchayat or the Commissioner shall, within a period of two months from the date on which such intimation is given or doubt is entertained, as the case may be, apply to the District Court having jurisdiction over the area in which office of the gram panchayat is situated for decision.

2. *Pending such decision, the member shall be entitled to act as if he is qualified or were not disqualified."*

In terms of the above statutory provision, the Gram Panchayat member is entitled to approach the District Court having jurisdiction over the area in which the office of the gram panchayat is situated, for a decision as to the correctness of the intimation communicated by the District Panchayat Officer, as to the incurring of the disqualification under the provisions of the Act. Sub-section(2) of Section 22 of the Act ordains specifically that pending such decision (by the District Court), the member shall be entitled to act as if he is qualified or were not disqualified. In the context of the statutory position, the petitioner does not suffer a disqualification immediately on the communication of the intimation dated 12.4.2006 by the respondent. No contrary intention is intended by the order of the 2nd respondent dated 12.4.2006.

The learned Government Pleader for Panchayat Raj states that the order of the respondent to the extent it records that the petitioner has incurred a disqualification with immediate effect, is erroneous, contrary to the provisions of Section 22 of the Act and cannot disqualify the petitioner immediately.

Recording the above submission and treating the proceedings of the respondent dated 12.4.2006 as merely an intimation under Section 22(1) of the Act, the writ petition is disposed of granting liberty to the petitioner to approach the District Court for a decision under Section 22(1) of the Act. No costs.

GODA RAGHURAM, J

2nd May, 2006

Note: Furnish copy in three days.

B/o

bcj